

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1936

AN ACT

2 To repeal sections 261.110, 261.230, 261.235
3 and 261.239, RSMo, and to enact in lieu
4 thereof six new sections relating to
5 agriculture.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
7 AS FOLLOWS:

8 Section A. Sections 261.110, 261.230, 261.235 and 261.239,
9 RSMo, are repealed and six new sections enacted in lieu thereof,
10 to be known as sections 261.110, 261.120, 261.230, 261.235,
11 261.239 and 261.240, to read as follows:

12 261.110. 1. The department of agriculture shall develop
13 standards and labeling for organic farming.

14 2. The department of agriculture shall adopt rules to
15 implement the provisions of this section.

16 3. The department may cooperate with any agency of the
17 federal government, any state, any other agency in this state,
18 any private entity or person engaged in growing, processing,
19 marketing of organic products, or any group of such persons in
20 this state, in programs to effectuate such purposes. Such

1 agreements may provide for cost and revenue sharing, and for
2 division of duties and responsibilities under this section and
3 may include other provisions generally to effectuate the purposes
4 of this section.

5 4. No rule or portion of a rule promulgated pursuant to the
6 authority of this section shall become effective unless it has
7 been promulgated pursuant to the provisions of chapter 536, RSMo.

8 261.120. There is hereby created in the state treasury the
9 "Organic Production and Certification Fee Fund". Fees imposed in
10 accordance with rules promulgated under section 261.110, shall be
11 credited to the organic production and certification fee fund.

12 261.230. The director of the department of agriculture
13 shall, for the use of the marketing division of the department of
14 agriculture, develop and implement rules and regulations by
15 product category for all Missouri agricultural products included
16 in the AgriMissouri marketing program or any equivalent successor
17 program. [Any rule or portion of a rule, as that term is defined
18 in section 536.010, RSMo, that is created under the authority
19 delegated in this section shall become effective only if it
20 complies with and is subject to all of the provisions of chapter
21 536, RSMo, and, if applicable, section 536.028, RSMo. This
22 section and chapter 536, RSMo, are nonseverable and if any of the
23 powers vested with the general assembly pursuant to chapter 536,
24 RSMo, to review, to delay the effective date or to disapprove and
25 annul a rule are subsequently held unconstitutional, then the

1 grant of rulemaking authority and any rule proposed or adopted
2 after August 28, 2000, shall be invalid and void.]

3 261.235. 1. There is hereby created in the state treasury
4 for the use of the marketing division of the state department of
5 agriculture a fund to be known as "The Missouri Agricultural
6 Products Marketing Development Fund". [The general assembly
7 shall appropriate to the fund from the general revenue fund one
8 million three hundred thousand dollars for fiscal year 2002, one
9 million dollars for fiscal year 2003 and seven hundred fifty
10 thousand dollars for fiscal years 2004 to 2006.] All moneys
11 received by the state department of agriculture for Missouri
12 agricultural products marketing development from any source,
13 including trademark fees, shall be deposited in the fund. Moneys
14 deposited in the fund shall, upon appropriation by the general
15 assembly to the state department of agriculture, be expended by
16 the marketing division of the state department of agriculture for
17 purposes of Missouri agricultural products marketing development
18 as specified in this section. The unexpended balance in the
19 Missouri agricultural products marketing development fund at the
20 end of the biennium shall not be transferred to the ordinary
21 revenue fund of the state treasury and accordingly shall be
22 exempt from the provisions of section 33.080, RSMo, relating to
23 transfer of funds to the ordinary revenue funds of the state by
24 the state treasurer.

25 2. There is hereby created within the department of

1 agriculture the "Citizens' Advisory Commission for Marketing
2 Missouri Agricultural Products". The commission shall establish
3 guidelines, and make recommendations to the director of
4 agriculture, for the use of funds appropriated by the general
5 assembly for [the spending by] the marketing division of the
6 department of agriculture [of all moneys in] , and for all funds
7 collected or appropriated to the Missouri agricultural products
8 marketing development fund created pursuant to subsection 1 of
9 this section. The guidelines shall focus on the promotion of the
10 AgriMissouri or successor trademark associated with Missouri
11 agricultural products [which has] that have been approved by the
12 general assembly, and shall advance the following objectives:

13 (1) Increasing the impact and fostering the effectiveness
14 of local efforts to promote Missouri agricultural products;

15 (2) Enabling and encouraging expanded advertising efforts
16 for Missouri agricultural products;

17 (3) Encouraging effective, high-quality advertising
18 projects, innovative marketing strategies, and the coordination
19 of local, regional and statewide marketing efforts;

20 (4) Providing training and technical assistance to
21 cooperative-marketing partners.

22 [3.] The commission shall establish a fee structure for
23 sellers electing to use the AgriMissouri or successor trademark
24 associated with Missouri agricultural products. [Under the fee
25 structure: (1) a seller having gross annual sales greater than

1 two million dollars per fiscal year of Missouri agricultural
2 products which constitute the final product of a series of
3 processes or activities shall remit to the marketing division of
4 the department of agriculture, at such times and in such manner
5 as may be prescribed, a trademark fee of one-half of one percent
6 of the aggregate amount of all of such seller's wholesale sales
7 of products carrying the AgriMissouri or successor trademark; and
8 (2) all sellers having gross annual sales less than or equal to
9 two million dollars per fiscal year of Missouri agricultural
10 products which constitute the final product of a series of
11 processes or activities shall, after three years of selling
12 Missouri agricultural products carrying the AgriMissouri or
13 successor trademark, remit to the marketing division of the
14 department of agriculture, at such times and in such manner as
15 may be prescribed, a trademark fee of one-half of one percent of
16 the aggregate amount of all of such seller's wholesale sales of
17 products carrying the AgriMissouri or successor trademark.] All
18 trademark fees shall be deposited to the credit of the Missouri
19 agricultural products marketing development fund, created
20 pursuant to this section. The commission may also create two
21 additional trademark labels to be associated with Missouri
22 agricultural products [which are] for the labeling of Missouri
23 certified organic products and Missouri certified
24 family-farm-produced products.

25 [4.] 3. The marketing division of the department of

1 agriculture is authorized to [promote] promulgate rules
2 consistent with the guidelines and fee structure established by
3 the commission. No rule or portion of a rule shall become
4 effective unless it has been promulgated pursuant to the
5 provisions of chapter 536, RSMo.

6 [5.] 4. The commission shall consist of nine members
7 appointed by the governor with the advice and consent of the
8 senate. One member shall be the director of the market
9 development division of the department of agriculture, or his or
10 her representative. At least one member shall be a specialist in
11 advertising; at least one member shall be a specialist in
12 agribusiness; at least one member shall be a specialist in the
13 retail grocery business; at least one member shall be a
14 specialist in communications; at least one member shall be a
15 specialist in product distribution; at least one member shall be
16 a family farmer with expertise in livestock farming; at least one
17 member shall be a family farmer with expertise in grain farming
18 and at least one member shall be a family farmer with expertise
19 in organic farming. Members shall serve for four-year terms,
20 except in the first appointments three members shall be appointed
21 for terms of four years, three members shall be appointed for
22 terms of three years and three members shall be appointed for
23 terms of two years each. Any member appointed to fill a vacancy
24 of an unexpired term shall be appointed for the remainder of the
25 term of the member causing the vacancy. The governor shall

1 appoint a chairperson of the commission, subject to ratification
2 by the commission.

3 [6.] 5. Commission members shall receive no compensation
4 but shall be reimbursed for actual and necessary expenses
5 incurred in the performance of their official duties on the
6 commission. The division of market development of the department
7 of agriculture shall provide all necessary staff and support
8 services as required by the commission to hold commission
9 meetings, to maintain records of official acts and to conduct all
10 other business of the commission. The commission shall meet
11 quarterly and at any such time that it deems necessary. Meetings
12 may be called by the chairperson or by a petition signed by a
13 majority of the members of the commission. Ten days' notice
14 shall be given in writing to such members prior to the meeting
15 date. A simple majority of the members of the commission shall
16 be present to constitute a quorum. Proxy voting shall not be
17 permitted.

18 261.239. The marketing division of the department of
19 agriculture shall create an Internet web site for the purpose of
20 fostering the marketing of Missouri agricultural products over
21 the Internet. [The web site shall allow consumers to place
22 orders for Missouri agricultural products over the Internet and
23 shall enable small companies which process Missouri agricultural
24 products to pool products with other such small companies.]

25 261.240. Any rule or portion of a rule, as that term is

1 defined in section 536.010, RSMo, that is created under the
2 authority delegated in sections 261.230 to 261.239 shall become
3 effective only if they comply with and are subject to all of the
4 provisions of chapter 536, RSMo, and if applicable, section
5 536.028, RSMo. These sections and chapter 536, RSMo, are
6 nonseverable and if any of the powers vested with the general
7 assembly pursuant to chapter 536, RSMo, to review, to delay the
8 effective date, or to disapprove and annul a rule are
9 subsequently held unconstitutional, then the grant of rulemaking
10 authority and any rule proposed or adopted after August 28, 2001,
11 shall be invalid and void.